

LAWLER, METZGER & MILKMAN, LLC

2001 K STREET, NW  
SUITE 802  
WASHINGTON, D.C. 20006

RUTH MILKMAN  
PHONE (202) 777-7726

PHONE (202) 777-7700  
FACSIMILE (202) 777-7763

November 7, 2003

BY ELECTRONIC FILING

Marlene H. Dortch, Secretary  
Federal Communications Commission  
445 Twelfth Street, S.W.  
Washington, D.C. 20554

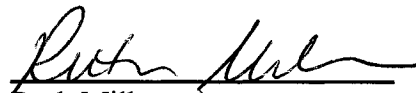
Re: *Ex Parte Presentation*  
In the Matter of Review of the Section 251 Unbundling  
Obligations of Incumbent Local Exchange Carriers,  
CC Docket Nos. 01-338, 96-98, 98-147

Dear Ms. Dortch:

On November 7, 2003, Karen Johnson and Hank Hultquist of MCI, and Ruth Milkman, Lawler, Metzger & Milkman, counsel to MCI, met with Jessica Rosenworcel. On the same day, Ms. Johnson, Mr. Hultquist, Ms. Milkman, and Kimberly Scardino of MCI met with Daniel Gonzalez to discuss the above-referenced proceeding. In these meetings, MCI discussed BellSouth's Petition for Reconsideration of the *Triennial Review Order* as described in the attached presentation.

Pursuant to the Commission's rules, this letter is being provided to you for inclusion in the public record of the above-referenced proceeding.

Sincerely,

  
Ruth Milkman

Enclosure

cc: Daniel Gonzalez  
Jessica Rosenworcel

# Triennial Review Recon Petitions

CC Docket No. 01-338

November 7, 2003



## FCC Should Reject Recon Petitions Filed by BellSouth, USIIA and SureWest

- Petitions not about broadband.
- Petitions are designed to avoid unbundling requirements of *narrowband* services and traditional *DS1* and *DS3* loops.
- The requests would deny mass market and enterprise customers the ability to have a choice of service providers.

## FTTC is not FTTH

- Fiber to the Curb (FTTC) is an intermediate fiber architecture
- BST CEO admits that fiber to the home (FTTH) is “the ultimate platform” for delivering voice, data and video.
  - BST admits it serves 1 million homes with fiber
- No proof that BOCs are using FTTC in “greenfield” situations.
- BST seeking to exempt *existing* loops from unbundling requirements.

## FCC Should Not Restrict Unbundling of Fiber to MDUs

- Multiunit premises are part of the enterprise market.
- CLECs need access to MDUs.
- BST and SureWest's requested relief would: 1) eliminate CLECs ability to lease DS1s and DS3s to these buildings; and 2) deny CLECs access to consumers for narrowband services.

## Attempts to Limit Access to DS1s, DS3s and Dark Fiber Should Be Denied

- ILECs must not be permitted to design or configure their networks in a manner that denies CLECs access to TDM-compatible loops.
- FCC rules require ILECs to unbundle newly installed dark fiber.

## Section 271 Creates An Independent Obligation

- FCC is on record that Section 271 establishes an independent and ongoing obligation that is separate from section 251.
- BST and USIIA requests that broadband services be exempt from this finding are without merit.
- Triennial Order is clear on this issue: “We expect that the ILECs will develop wholesale service offerings for access to their fiber feeder to ensure that CLECs have access to copper subloops.” ¶ 253.

## Commingling Clarifications Needed

- The FCC should clarify that the BOCs are required to permit commingling of de-listed checklist items with UNEs and services.